

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

THURSDAY, THE 15TH MARCH 2007 / 24TH PHALGUNA 1928

CrI.MC.No. 708 of 2007()

CC.196/2005 of JUDL.MAGISTRATE OF FIRST CLASS, HARIPAD

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PETITIONER: ACCUSED

MANOJ, S/O. PONNAPPAN,
RESIDING AT MANOJ BHAVANAM, NANGYARKULANGARA P.O.,
ALAPPUZHA.

BY ADV. SRI.JOHNSON GOMEZ

RESPONDENTS: STATE & DEFACTO COMPLAINANT

1. THE STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
AT ERNAKULAM, THROUGH THE SUB INSPECTOR OF POLICE,
KARIYILAKULANGARA POLICE STATION, ALAPPUZHA.

2. VIDHYA, D/O. THANKAPPAN,
RESIDING AT AYINNAVELIL PADIYITTATHIL,
PATTOLI MARKET, MUTHUKULAM, ALAPPUZHA.

BY PUBLIC PROSECUTOR SRI.S.U. NAZAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 15/03/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

V. RAMKUMAR, J.

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Crl. M.C. No. 708 of 2007

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Dated, this the 15th day of March 2007

ORDER

Notice to 2nd respondent is dispensed with.

2. Petitioner is the husband of the 2nd respondent Vidhya. There were proceedings between the petitioner and the 2nd respondent for divorce, for maintenance and for prosecution under Sec. 498 A I.P.C. Crl. M.C. 503 of 2005 pending before the Family Court, Alappuzha is a proceeding for maintenance instituted by the 2nd respondent. O.P. 1456/05 pending before the Family court filed by the husband is for divorce under Sec. 13 of the Hindu Marriage Act. C.C. 196/2005 pending before the J.F.C.M., Harippad is the case in which the petitioner husband is being prosecuted for an offence punishable under Section 498 A I.P.C. Pending all these proceedings, on 23-02-2007 the matrimonial partners entered into a compromise the terms of which have been reduced into writing as evidenced by Annexure A. One of the conditions of compromise was that the wife will not prosecute C.C. 196/05 if the payments referred to under clauses 1 and 2 of Annexure A compromise were made. As per Clause 2 of Annexure A compromise, after paying Rs. 1,40,000/- the balance amount of Rs. 2,85,000/- was to be paid to the wife

within a period of two months from the date of agreement i.e. within two months of 23-02-2007. Thus the husband has time till 23-4-2007 to make the balance payment of Rs. 2,85,000/-. When C.C. 196/05 taken up for trial in the meanwhile, the petitioner claims to have moved the Magistrate to adjourn the C.C.. The said request is said to have been rejected and the C.C. itself has been posted on 16-3-2007.

3. In the fitness of things when as per the agreements entered into between the parties, the petitioner got time till 23-4-2007 to pay the balance amount of Rs. 2,85,000/- whereupon the wife has agreed that she will not prosecute C.C. 196/06, the learned Magistrate ought to have favourably considered the request of the petitioner husband for adjournment of the case. Accordingly, if C.C. 196/05 stands posted for trial, the same shall stand adjourned to a date immediately after 23-4-2007 so as to enable the petitioner to honour his commitment under Clause 2 of Annexure A compromise.

This Crl. M. C. is disposed of as above.

**V. RAMKUMAR,
(JUDGE)**

CrI.M.C. 708 of 2007

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